

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

EUGENE HORTON,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 09-cv-1005-MJR
)	
MARVIN POWERS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

Plaintiff Eugene Horton, a prisoner in the Tamms Correctional Center, has filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. He also seeks to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (Doc. 3).

A prisoner may not bring a civil action or appeal a civil judgment under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Section 1915(g) requires that this Court consider prisoner actions dismissed prior to, as well as after, the PLRA’s enactment. *See Evans v. I.D.O.C.*, 150 F.3d 810, 811 (7th Cir. 1998); *Abdul-Wadood v. Nathan*, 91 F.3d 1023 (7th Cir. 1996).

Horton has had at least three prior prisoner actions dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted. *See, e.g., Horton*

v. True, Case No. 92-cv-495 (N.D. Ill., filed Feb. 13, 1992)(dismissed for failure to state a claim, March 10, 1994); *Horton v. Godinez*, Case No. 94-cv-1466 (N.D. Ill., filed Dec. 12, 1994) (dismissed for failure to state a claim, Oct. 12, 1994); *Horton v. Marovich*, Case No. 94-cv-6524 (N.D. Ill., filed March 24, 1994) (dismissed for failure to state a claim, Jan. 19, 1995); *Horton v. Welborn*, Case No. 98-cv-538-GPM (S.D. Ill., filed July 20, 1998) (dismissed as frivolous, Oct. 16, 1998). Further, the allegations in the instant complaint do not show that Horton is under imminent danger of serious physical injury.

Accordingly, the motion for leave to proceed *in forma pauperis* is **DENIED**. This action is **DISMISSED** without prejudice to Horton bringing his claims in a fully pre-paid complaint. All other pending motions are now **MOOT**.

The Clerk shall **CLOSE THIS CASE**.

IT IS SO ORDERED.

DATED this 4th day of December, 2009.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge